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In re Application of Borran et al.
Application No.: 10/523,167
PCT Application No.: PCT/IB2003/002088
Int. Filing Date: 29 May 2003
Priority Date: 1 July 2002
Attorney Docket No.: 873.0115.U1(WO)
For: METHOD AND APPARATUS TO
ESTABLISH CONSTELLATIONS FOR
IMPERFECT CHANNEL STATE INFORMATION
AT RECEIVER

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: DECISION ON PETITION
: UNDER 37 CFR 1.137(b)
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Applicants' PETITION FOR REVIVIAL UNDER 37 CFR 1.137(b), filed in the United States Patent and Trademark Office (PTO) on 27 January 2005, is **GRANTED**.

BACKGROUND

On 29 May 2003, applicant filed international application PCT/IB2003/002088. The international application claims the priority date of 1 July 2002 and designates the United States. The deadline for payment of the basic national fee into the United States National Stage was thirty months from the priority date, that is 1 January 2005. Applicant failed to pay the basic national fee and the application became abandoned at midnight 1 January 2005.

On 27 January 2005, applicant filed the instant petition for revival accompanied by, *inter alia*, a transmittal letter requesting entry into the national phase under 35 U.S.C. 371, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), a copy of the international application, a copy of the international preliminary examination report, a copy of the international search report, an information disclosure statement, and the petition fee of \$1500.00.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper reply, (2) the petition fee required by law (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

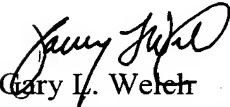
The submission of the transmittal letter requesting entry into the national phase satisfies 37 CFR 1.137(b)(1). The payment of the petition fee satisfies the requirement under 37 CFR 1.137(b)(2). The applicants' statement in the petition that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional satisfies the requirements of 37 CFR 1.137(b)(3). A terminal disclaimer is not required because the application was filed on or after 08 June 1995.

A review of the application file reveals that applicant has satisfied the requirements of 37 CFR 1.137(b), and that the application satisfies the requirements under 35 U.S.C. 371 for entry into the national stage in the United States.

CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accordance with this decision.


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